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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixty-first session

SUMMARY RECORD OF THE 1537th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 14 August, at 10 a.m.

Chairman: Mr. PILLAI
(Vice-Chairman)

later: Mr. DIACONU
(Chairman)

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In the absence of Mr. Diaconu, Mr. Pillai, Vice-Chairman, took the Chair.

The meeting was called to order at 10.15 a.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

Financial implications of holding a Committee session in New York

1. Mr. BRUNI (Office of the United Nations High Commissioner for Human Rights), referring to the financial implications of a request by the Committee to hold a session in New York, said that in 2000, when the previous such request had been presented to the General Assembly, the cost of holding a session in Geneva had been estimated at $164,400 as against $250,700 for New York, i.e. a difference of $86,300. Details could be found in the addendum to the Report of the Committee on its fifty-sixth session (A/55/18/Add.1, para. 5). The General Assembly had taken note of the Committee's request and in December 2000 it had referred the matter back to the Committee for further consultation with States parties. The then Chairman had subsequently attended a meeting of States parties in August 2001 and explained the Committee's reasoning. At the meeting, only two States parties had commented on the issue. The United States of America had said that a session in New York would cost too much, and the Syrian Arab Republic had said that the matter merited serious consideration "in the appropriate forum".

2. In a separate development, the Committee should be aware that the Human Rights Committee had recently decided to cancel all its sessions in New York in 2003, mainly as a result of budget cuts. In addition, heightened security at United Nations Headquarters had caused considerable problems: boxes of accompanying documentation from Geneva had had to be delivered more than four weeks in advance of the session (instead of a fortnight, as previously), a requirement that had obviously put immense time pressure on the human rights secretariat. In addition, members of the Human Rights Committee and NGO representatives had encountered difficulties entering the Headquarters building and had been forced to use the visitors' entrance. Other priorities had taken a toll on the quality of the documentation provided. The Committee might wish to bear all those points in mind before requesting a session in New York in 2003.

3. Mr. ABOUL-NASR said that he was unimpressed by the secretariat's defeatist attitude. Security was tight everywhere; that was just a fact of life. And what was the point of shipping boxes of documents when all the necessary material could be sent electronically? By referring the matter back to the States parties, the General Assembly had shirked its responsibility to take a decision. Nor had the States parties been particularly helpful: the objection by the United States on cost grounds was drearily predictable, and the Syrian Arab Republic had been non-committal. Nothing prevented the Committee from making another request. The Convention stated explicitly that meetings of the Committee should normally be held at United Nations Headquarters. Moreover, the United Nations Legal Counsel in New York had once stated that holding meetings in Europe would be in breach of the Convention.

4. The CHAIRMAN, speaking as a member of the Committee, said that he would like to know who had taken the decision to relegate the experts of the Human Rights Committee to the status of "visitors". Apart from the Human Rights Committee, what other treaty monitoring bodies had fallen foul of the difficult financial situation and zealous security?

5. Mr. BRUNI (Office of the United Nations High Commissioner for Human Rights) said that the Convention did state that the Committee should normally meet at Headquarters, but since the adoption of the Convention the human rights secretariat had moved to Geneva. No other treaty monitoring body except the Human Rights Committee was in the habit of holding meetings away from its "base". By contrast, the Committee on the Elimination of Discrimination against Women (CEDAW) and its secretariat were both based in New York. As to why the experts on the Human Rights Committee had been forced to enter United Nations premises through the visitors' entrance, that was presumably a matter for United Nations security.

6. Mr. HERNDL said that he would appreciate more information as to why the Human Rights Committee had agreed to such a drastic change in its working methods: was it a protest against shoddy treatment? Or had the Committee simply wished to save money? The issue of admittance to the building could surely be resolved to the satisfaction of all concerned. But the central fact remained that the Committee's request to hold a session in New York was based on objective and sound reasons.

7. Mr. BRUNI (Office of the United Nations High Commissioner for Human Rights) said that the Human Rights Committee had decided to forgo a session in New York mainly for financial reasons. The Committee was normally serviced by seven members of the human rights secretariat from Geneva; in 2003 there was enough money to send only three, and hence the Committee would have been unable to function effectively.

8. The CHAIRMAN suggested that, in reiterating its request to hold a session in New York, the Committee should deploy weightier arguments. Specifically, it should stress that the requirement to meet at Headquarters was laid down in the Convention itself, and that the Committee would be satisfied with just one session in New York every two years. Mr. Herndl should be detailed to marshal some appropriately cogent arguments.

9. It was so agreed.

Consideration of draft concluding observations in closed meetings

10. Mr. SICILIANOS raised a point of order: before proceeding, as scheduled, with consideration of the draft concluding observations concerning the third and fourth periodic reports of Armenia, the Committee should first give further consideration to the important point raised at the previous meeting by Mr. Herndl and other Committee members that draft concluding observations should be considered in closed meetings. He proposed that the Committee should adopt a formal decision on the matter.

11. Mr. YUTZIS, supported by Mr. de GOUTTES, said that, while the proposal made by Mr. Sicilianos warranted consideration, the discussion should take place after the scheduled consideration of the draft concluding observations on the third and fourth periodic reports of Armenia.

12. Mr. ABOUL-NASR regretted that a decision on the matter had not been taken at the previous meeting and was in favour of awaiting the return of the Chairman before reopening the discussion.

13. Mr. HERNDL said that his suggestion to consider the draft concluding observations in a closed meeting, on a trial basis, at the current session had been very limited in scope. He agreed that a decision on the matter should be taken, and that it should precede consideration of the draft concluding observations on Armenia, so as to accord equal treatment to all States parties.

14. Mr. RESHETOV agreed that an immediate decision should be taken.

15. Mr. SHAHI, supported by Mr. VALENCIA RODRIGUEZ, likewise favoured an immediate decision so as to set a precedent for the rest of the session. He advocated a compromise solution, and therefore endorsed Mr. Herndl's suggestion to consider the draft concluding observations in closed meetings, in conformity with earlier Committee practice, on a trial basis at the current session. A decision could be made later on the approach that should be taken at the next session.

16. In response to a suggestion by the CHAIRMAN to refer to the Committee's rules of procedure, Mr. YUTZIS said that the Committee was the master of its own rules. He objected to the suggestion to hold closed meetings on a trial basis, which was only a partial solution and ran counter to the Committee's aim of ensuring that all States received equal treatment. The issue was sufficiently important to warrant an in-depth discussion and a well-founded decision on the future practices of the Committee. Until that was possible, the Committee should consider its draft concluding observations in public meetings, in accordance with the usual practice.

17. Mr. KJAERUM, endorsing Mr. Yutzis' comments said that the issue should be considered within a broader context, taking into account the importance of interaction with the media and non-governmental organizations (NGOs). He saw no need to make a hasty decision on the matter and urged the Committee to consider it in more depth.

18. Ms. JANUARY-BARDILL said that she was not in favour of a trial period of closed meetings as it remained unclear what the Committee would gain from such an experiment. She agreed with those members who were of the view that a firm decision should be made as to whether or not to consider draft concluding observations in closed meetings. The Committee should not consider the draft concluding observations on the report of Armenia until such a decision had been reached.

19. Mr. ABOUL-NASR objected to reopening an issue that had been discussed at length at the previous meeting and on which the Chairman had ruled that no decision would be made. Mr. Sicilianos should have made an official request for reconsideration, in accordance with the rules of procedure.

20. Mr. SICILIANOS confirmed that his request for a roll-call vote at the previous meeting had been rejected and no decision had been taken. He drew attention to the provision in rule 37 of the Committee's rules of procedure that the Chairman had control over the proceedings of the Committee and also to the provision in rule 31 that the meetings of the Committee were to be held in public "unless the Committee decides otherwise". Therefore, the Committee could decide at any time to hold meetings in private.

21. The CHAIRMAN, summing up the discussion, said that the Committee could either take an immediate decision on whether or not to consider draft concluding observations in closed meetings, or decide to continue with its consideration of the draft concluding observations on Armenia according to usual practice and then discuss the question in more detail at a later date. Drawing attention to rule 38 of the rules of procedure, he said that, if the Committee so decided, he would make a ruling on the matter. He was of the opinion that the issue needed to be explored in more depth and that, until a formal decision was reached, the existing procedure should prevail. The Committee should therefore proceed with the consideration of the draft concluding observations on the reports of Armenia in a public meeting and hold subsequent discussions on the issue of holding closed meetings for the consideration of draft concluding observations.

22. It was so agreed.

Letters from the Permanent Mission of Turkey

23. Mr. AMIR, referring to two letters put before the Committee from the Permanent Mission of Turkey to the United Nations in Geneva about the Committee's consideration of the third and fourth periodic reports of Armenia, said he failed to understand why a letter dated 2 July 2002 had not been made available before the Committee had been due to consider the situation of Armenia and could draw conclusions about its relationship with Turkey. He saw a relationship of cause and effect between the draft concluding observations on Armenia and the two letters. In order to be able to form an objective opinion and to avoid eliciting another reaction of that nature from Turkey, the Committee should be given ample time to study the letters.

24. The CHAIRMAN said that the letters could be discussed in the context of the consideration of the draft concluding observations on Armenia.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Draft concluding observations concerning the third and fourth periodic reports of Armenia (CERD/C/61/Misc.14/Rev.1)

25. Mr. YUTZIS (Country Rapporteur) said that the text incorporated suggestions made by the members of the Committee.

Paragraphs 1 and 2

26. Paragraphs 1 and 2 were adopted.

Paragraph 3

27. The CHAIRMAN said he wondered whether the word "regrets" should be included in the introductory section.

28. Mr. YUTZIS (Country Rapporteur) said that he had included that paragraph in the introduction with a view to shortening the exceedingly long section on concerns and recommendations.

29. Mr. de GOUTTES, supported by Mr. LINDGREN, proposed that the word "notes" should be used in place of "regrets".

30. Paragraph 3, as amended, was adopted.

Paragraphs 4 to 6

31. Paragraphs 4 to 6 were adopted.

Paragraph 7

32. Mr. ABOUL-NASR questioned whether the Committee should request disaggregated data on gender, which did not fall within the scope of the Convention.

33. Mr. YUTZIS (Country Rapporteur) said that, even though the Committee's General Recommendation XXV specified that States parties should discuss the status of women in their reports, Mr. Aboul-Nasr repeatedly raised that objection. In his view, it was just and appropriate to ask for the inclusion of information on gender, in particular because of the double discrimination suffered by women, on the basis of gender and race.

34. Mr. LINDGREN said that, although it was true that the Convention did not address the issue of gender, United Nations bodies had taken decisions requesting the human rights treaty monitoring bodies to address the problem of gender; in his view, the Committee should comply with such requests.

35. Paragraph 7 was adopted.

Paragraphs 8 and 9

36. Paragraphs 8 and 9 were adopted.

Paragraph 10

37. Mr. ABOUL-NASR said he wondered what the difference was between "ethnic" and "national" minorities, and why both terms had been used.

38. Mr. YUTZIS (Country Rapporteur) said that there had been much theoretical debate on the terms used to describe minorities. In many countries, there were persons who spoke different languages, or whose skin colour was different, but who did not necessarily belong to a nation: they were ethnic, not national minorities. The Roma, for instance, might be an ethnic minority but not a national minority.

39. Mr. SHAHI observed that, when a State had numerous minorities, it was impractical to propose that it should give due representation in the legislature to all of them. The Committee should be aware that the recommendation in paragraph 10 might be impossible for the State party to implement. Was the Committee suggesting that Armenia should group together its minorities and give them one or several seats?

40. Mr. Diaconu took the Chair.

41. The CHAIRMAN said that it was essential to mention the representation of minorities. States parties had many ways of resolving the problem: some had minority parties, others had minority seats.

42. Mr. RESHETOV proposed that the word "all" should be deleted before "necessary steps", and "appropriate" inserted before "information".

43. Mr. SHAHI proposed that the word "adequate" should be changed to "due."

44. Paragraph 10, as amended, was adopted.

Paragraph 11

45. Paragraph 11 was adopted.

Paragraph 12

46. Mr. TANG Chengyuan said he wondered whether the Committee could indeed ask Armenia to provide education to all its minorities in their mother tongue. It might help to add the word "appropriate" before "measures."

47. Mr. YUTZIS (Country Rapporteur) pointed out that he had added the words "wherever possible" at the end of the paragraph in order to reflect that concern.

48. Mr. LINDGREN said that, although he agreed with the paragraph in principle, that stance should not be considered general practice by the Committee. It would not be workable in South America, for instance.

49. The CHAIRMAN said that the Committee had to adapt its observations to each country, and certainly not draw sweeping conclusions about whole continents. In some countries, children of a certain ethnic group lived in scattered locations and were collected by bus in the morning and taken to a special school. In other countries, where there were only a handful of children in one ethnic group, a special class was provided for those children, lasting an hour or so a day. Those were both appropriate possibilities. There were many ways of resolving the problem of access to education in the mother tongue.

50. Mr. YUTZIS (Country Rapporteur) said that the Committee should, at some subsequent time, hold a full discussion on that subject: one of the major causes of loss of cultural identity was the loss of language.

51. Mr. PILLAI proposed that, in the first sentence, the words "lack of" should be inserted before the word "access".

52. The CHAIRMAN said that "lack of access" was incorrect. There were, in fact, schools for the Russian minority in Armenia.

53. Mr. PILLAI proposed instead that the word "inadequate" should be inserted before the word "access".

54. The CHAIRMAN said in reply to a question by Mr. AMIR that "appropriate" meant that the form of education provided would depend on the circumstances, such as the number of children in a certain ethnic group and their geographical distribution. It could therefore mean a school, a class, or several hours of class.

55. Mr. ABOUL-NASR observed that the word "appropriate" could be used as a pretext for not taking action.

56. The CHAIRMAN said that, since the recommendation specified that the State party should take appropriate measures, it was in fact was under an obligation do so.

57. Paragraph 12, as amended, was adopted.

Paragraph 13

58. Mr. THORNBERRY suggested deleting the words "as appropriate" from the first sentence.

59. Mr. KJAERUM said that the words "and broadcasts" should be added at the end of the final sentence.

60. Paragraph 13, as amended, was adopted.

Paragraph 14

61. Mr. RESHETOV said that the third line would be made clearer by replacing "by" in the third line with "in respect of".

62. Mr. YUTZIS (Country Rapporteur) said that the wording of the beginning of the paragraph already made it clear that the Committee was concerned only with the religious freedoms of ethnic minorities and not religious freedom in general; the words "generally practised by members of minorities" could therefore be deleted.

63. Mr. AMIR asked whether there was any significance in the use of both "freedom of religion" and "religious freedoms".

64. The CHAIRMAN said he preferred "religious freedoms" as it encompassed a range of different freedoms associated with religion.

65. Mr. THORNBERRY suggested that the last line should be changed to read: "to ensure freedom of religion to all without discrimination" and that, accordingly, "religious freedoms" in the first line should be changed to "freedom of religion".

66. Paragraph 14, as amended, was adopted.

Paragraph 15

67. Mr. SICILIANOS said that the insertion of "only" after "applied" and "and that this may lead to discrimination on the basis of ethnic origin" after "1988-1992" in line 3 would serve to clarify what was required of the State party.

68. Pagragraph 15, as amended, was adopted.

Paragraph 16

69. Mr. SICILIANOS said that he would prefer a stronger formulation, otherwise the paragraph added little to the document. Instead of asking the State party merely to provide information on the Coordinating Council of National Minorities and the other bodies, it should be encouraged to strengthen the role and competence of all three bodies mentioned.

70. After an exchange of views in which Mr. ABOUL-NASR, the CHAIRMAN, Mr. de GOUTTES, Mr. KJAERUM, and Mr. YUTZIS (Country Rapporteur) took part, Mr. THORNBERRY suggested that "bearing in mind the importance of such bodies to the achievement of the objectives of the Convention" should be added at the end of the paragraph.

71. Paragraph 16, as amended, was adopted.

Paragraph 17

72. Mr. THIAM said that, since the matter was still under consideration it would be more accurate to replace "recommends that steps be taken" with "encourages the State party" in the second line.

73. Mr. THORNBERRY said that since the term "Ombudsman" implied an institutional arrangement, "institution" could be deleted.

74. Paragraph 17, as amended, was adopted.

Paragraph 18

75. Mr. TANG Chengyuan questioned the advisability of including the paragraph as it imposed yet another obligation on States parties.

76. Mr. THIAM said he did not agree with the current formulation as it could be used by States parties as an excuse for not complying with the deadlines for submitting reports.

77. The CHAIRMAN, replying to a question by Mr. AMIR on which NGOs were to be consulted, said that it would be inappropriate to include international NGOs in the recommendation, since what was of interest was information from the countries. The Committee would in any case receive information from international NGOs.

78. Mr. YUTZIS (Country Rapporteur) said that the intention was to leave States parties full latitude to determine which NGOs to consult.

79. Mr. PILLAI said that consultations should not be limited to NGOs. He suggested referring rather to "interested segments of civil society".

80. Mr. ABOUL-NASR objected to the paragraph as it stood. He questioned the practicability of requiring States parties to consult with NGOs, of which there were thousands in many countries. Such a requirement would raise questions of selection criteria and complicate the Committee's consideration of reports. He was not against consultation with NGOs in principle, but it should not be a specific requirement. He supported Mr. Pillai's suggestion about broadening the consultation process. That would also obviate the need to mention non-governmental organizations specifically.

81. Mr. YUTZIS (Country Rapporteur) agreed that NGOs were part of civil society in the broader sense. He explained that the paragraph, which was only two lines long and merely encouraged States parties to consult NGOs, was in compliance with the draft declaration and programme of action of the World Conference against Racism and the emphasis it placed on the value of consultations between States parties and national NGOs in achieving a more effective implementation of the Convention.

82. Mr. de GOUTTES suggested the wording "consult with the representatives of civil society and NGOs working in the area of combating racial discrimination".

83. Mr. THORNBERRY said that, to take account of all views expressed, the following formulation would be preferable: "organizations of civil society working in the area of combating racial discrimination".

84. Paragraph 18, as amended, was adopted.

Paragraph 19

85. Following comments by Mr. THIAM, Mr. YUTZIS (Country Rapporteur) and Mr. de GOUTTES, the CHAIRMAN said that the wording would be aligned on the standard formulation agreed upon at the previous session. The same would apply to other standard paragraphs.

86. Paragraph 19 was adopted.

Paragraphs 20 to 23

87. Paragraphs 20 to 23 were adopted.

88. The draft concluding observations concerning the third and fourth periodic reports of Armenia as a whole, as amended, were adopted subject to minor drafting changes.

89. The CHAIRMAN said that the definitive version of the concluding observations would be made available to the State party at the end of the session. Accordingly, NGOs should refrain from transmitting the observations just adopted to the press.

90. Mr. SHAHI said that the Permanent Mission of Turkey had written two letters to the Chairman of the Committee taking issue with the word "genocide" used in the periodic report of Armenia and the expression "economic blockade" used in the Armenian delegation's oral presentation. The Committee's concluding observations made no reference to either, so no further action by the Committee was necessary.

91. In reply to a suggestion by Mr. ABOUL-NASR, the CHAIRMAN said that there was no need for a written reply to the Permanent Mission of Turkey - a State that was not party to the Convention - stating that the Committee had taken note of its comments.

The meeting rose at 1 p.m.